

State of Rhode Island and Providence Plantations
DEPARTMENT OF BUSINESS REGULATION
Division of Insurance
233 Richmond Street
Providence, Rhode Island 02903

CONCISE EXPLANATORY STATEMENT

Insurance Regulation 43 – Insurance Claims Adjusters

The Department of Business Regulation (“Department”) hereby adopts amendments to Insurance Regulation 43 effective March 27, 2006 and makes this statement in accordance with R.I. Gen. Laws § 42-35-2.3. The Department makes these amendments in order to establish standards and procedures for the issuance of licenses and govern the conduct of licensees. There are nine differences between the text of the proposed regulation as published in accordance with R.I. Gen. Laws § 42-35-3 and the regulation as adopted, other than editing changes.

1. Section 3(E) has been amended to conform with the definition in Regulation 73. The proposal added elements that are not in the Regulation 73 definition. The Department may consider these changes in the future amendment of Regulation 73 to allow for full discussion of the issue.
2. Section 4(A) has been amended to be consistent with the definition of “person “ in section 3(O).
3. Section 4(B)(2) has been amended to remove the word “public” which was a typographical error.
4. Section 4(E)(5) was removed as it is duplicative of section 4(c) and, therefore, may lead to confusion.
5. Sections 7(A) and (C) were amended to provide further clarity as to eligibility for a reciprocal nonresident license and reinstatement.
6. Section 8(E) and 12(A)(1) have been amended to clarify that they apply to written or electronic communications from the Department.
7. Section 10(E) has been amended to clarify that an insured may retain a public adjuster to represent him or her with regard to one coverage limit when an offer of limits has been made on another coverage limit on the same insurance policy.
8. Section 10(H)(3) has been eliminated. It was the Departments’ intention to follow the National Association of Insurance Commissioners’ (NAIC) Model which was in draft form at the time the proposed amendment to this regulation was promulgated. When the Model was adopted by the NAIC this section was eliminated. The Department will continue to follow this issue and may address it in the future.
9. Section 11(A) and (B) have been eliminated as a result of concerns regarding enforcement and the fact that all adjusters are licensed. Section 11(C) has been moved to Section 8(F) and section 11(D) has been moved to Section 10(Z). As a result, the need for Section 11 no longer exists and the section has, therefore, been eliminated.

A number of comments were made during the hearing process which the Department considered, however, declined to adopt. Some of those comments suggested changes which would violate Rhode Island statutes and those changes have not been made. The remaining comments were:

1. One commenter suggested that many of the statutory provisions upon which the proposed amendments were based put the responsibility for compliance on the insurer and, therefore, should not be expanded to include the adjuster. In many instances, the Department believes that the separately licensed adjuster has the obligation to comply with the law when applicable and the Department has, therefore, declined the request to delete these areas from the regulation.
2. A commenter asked for an addition to section 8 regarding an adjusters contact with the insured once a public adjuster had been retained. The Department believes that this would be a substantive change which was not noticed in the Department's proposed amendments. As such, under the Administrative Procedures Act such a provision cannot be adopted at this time.
3. Commentators requested additions expanding the language of section 9(A). The Department believes that these changes would be substantive changes not noticed in the Department's proposed amendments. As such, under the Administrative Procedures Act such a provision cannot be adopted at this time. This declination does not affect the provisions of Insurance Bulletin 2004-2 and the Department does not believe that the language of this regulation controverts that bulletin.
4. A commenter requested the addition of section 11(E). The Department believes that this would be a substantive change which was not noticed in the Department's proposed amendments. As such, under the Administrative Procedures Act such a provision cannot be adopted at this time.
5. A commenter requested additional criteria with regard to section 12(A)(6). This section is identical to the statutory language applicable to insurance producers under R.I.G.L. § 27-2.4-14(a)(6). In conjunction with the application of this section, any applicant would be given a hearing under the Administrative Procedures Act. The Department believes that procedure provides sufficient safeguards.